IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 17464 of 2004

Between:

Smt. Sivavva W/o. Sayagoud,
Sarpanch, Gram Panchayat, Maqdoompur, Nizamsagar Mandal,
Nizamabad.

..... PETITIONER

AND

1 The Collector (PW), Nizmabad.
2 The District Panchayat Officer, Nizamabad.
3 The Commissioner for Panchayat Raj and Rural Employment, A.P.,

Hyderabad.
4 Govt of A.P., rep. by its Secretary,
Panchayat Raj and Rural Development Department,

Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of certiorari calling for the records relating to Proc. No. 467/2004-B5 (Pts), dated 14.9.2004 issued by the Collector, (PW), Nizamabad and quash the same as illegal, arbitrary, unjust and opposed to all principles of natural justice equity and fair play.

Counsel for the Petitioner : Mr.D.LINGA RAO

Counsel for the Respondents : G.P. FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

ORDER:

Assailing the proceedings of the first respondent dated 14.9.2004 in placing the petitioner under suspension for a period of three months, the present writ petition is filed.

The petitioner stated to be elected as Sarpanch of Maqdoompur Gram Panchayat. By the impugned proceedings dated 14.9.2004, the first respondent in exercise of the powers conferred under Section 249(6) of the A.P. Panchayat Raj Act, 1994, suspended the petitioner from the office of Sarpanch of Maqdoompur Gram Panchayat for a period of three months on certain irregularities said to have been committed by the petitioner stating that the SGRY/11th Finance Commission funds were spent contrary to the guidelines and thereby the petitioner misused the official powers and further 2% administrative expenses cannot be taken from SGRY funds.

Prior to passing of impugned orders suspending petitioner from the post of Sarpanch, a show cause notice for removal of cheque drawing powers was issued to the petitioner. Having not satisfied with the explanation submitted by the petitioner, the impugned orders have been passed by the first respondent placing the petitioner under suspension for a period of three months by duly complying the statutory requirement.

The learned counsel for petitioner submits that there was no allegation of misappropriation by the petitioner and the funds were utilized only for providing facilities to the people and that the petitioner cannot be placed under suspension. He contends that the petitioner cannot be relegated to file revision before the Government and in the event, if the petitioner is relegated to file revision, the impugned order may be suspended for a short period to enable the petitioner to obtain necessary orders.

Having regard to the facts and circumstances of the case, since the petitioner can avail the remedy of filing revision against the impugned orders before the

Government under Section 264 of the A.P. Panchayat Raj Act, 1994 for correctness or otherwise of the impugned order passed by the respondents with regard to any mis-utilization of funds by the petitioner, which can be gone into only by the revisional authority. In view of the same, no findings are required to be made in this regard.

The writ petition is accordingly disposed of permitting the petitioner to avail the remedy of filing revision under Section 264 of the A.P. Panchayat Raj Act, 1994 before the Government against the impugned order dated 14.9.2004 passed by the first respondent and can seek necessary orders. On filing of such revision, the revisional authority-Government is directed to consider the same including passing of any interim orders pending the revision. No costs.

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A.GOPAL REDDY, J

Date: 29.9.2004

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To

1 The Collector (PW), Nizmabad.
2 The District Panchayat Officer, Nizamabad.
3 The Commissioner for Panchayat Raj and Rural Employment, A.P.,

Hyderabad.
4 The Secretary, Govt of A.P., Panchayat Raj and Rural Development

Department, Secretariat, Hyderabad.

5 Two CCs to the G.P. for Panchayat Raj and Rural Development, High

Court Buildings, Hyderabad (OUT).

6 Two CD copies.